

Introduced by Senator Alarcon

February 18, 2005

An act to add Section 65957.3 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 593, as introduced, Alarcon. Development projects: superstore retailers.

(1) The Permit Streamlining Act requires the lead agency that has the principal responsibility for approving a development project, as defined, to approve or disapprove the project within 6 months from the date of certification of an environmental impact report, or within 3 months from the date of adoption of a negative declaration or the determination by the lead agency that the project is exempt from the California Environmental Quality Act, unless the project proponent requests an extension of time.

This bill would in addition require a city, county, or city and county, including a charter city, prior to approving or disapproving a proposed development project that would permit the construction of a superstore retailer, as defined, to cause an economic impact report to be prepared, as specified, to be paid for by the project applicant, and that includes specified assessments and projections including, among other things, an assessment of the effect that the construction and operation of the proposed superstore retailer will have on retail operations in the same market area. The bill would also require the governing body to provide an opportunity for public comment on the economic impact report. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to promote
2 market competition and economic development in all
3 communities of the state and to address the concerns of the
4 state's small businesses as the superstore retail model enters the
5 state's communities. Therefore, the Legislature finds and
6 declares all of the following:

7 (a) It is in the interest of local governments to promote
8 economic development in their jurisdictions.

9 (b) In many municipalities land use decisions are linked to
10 fiscal policy because governments receive a share of sales tax
11 revenues generated within their borders. California cities thus
12 often seek large sales tax revenue sources, such as superstores,
13 without taking into account all of the external economic effects
14 that superstores bring to communities.

15 (c) Transformations in the big box retail industry are rapidly
16 altering retail business nationwide, as California may soon learn
17 firsthand. The engine of this change is the retail format known as
18 the superstore—a big box retail store that also contains the
19 equivalent of a full-size grocery store, with the total floor space
20 often three to four times as large as that of a conventional
21 supermarket.

22 (d) As a result of the possible restructuring of retail business,
23 particularly the grocery sector in California, the following effects
24 may be seen: lower prices charged for grocery and other retail
25 goods; lower wages and benefits paid to grocery workers; and a
26 host of complex land use, traffic, and fiscal impacts.

27 (e) Land use decisions regarding superstores will fall to city
28 and county governments, even if the impacts will be regional as
29 well as local.

30 (f) Even if local officials foresee future negative economic
31 impacts on their local community, there is little incentive to

1 conduct an economic impact report and require the retail
2 applicant to pay the costs. If one city were to charge an applicant
3 approval cost, a superstore business would simply seek to operate
4 elsewhere and possibly shift local sales tax revenue away from
5 the city that required the report.

6 SEC. 2. Section 65957.3 is added to the Government Code, to
7 read:

8 65957.3. (a) As used in this section, “superstore retailer”
9 means a store greater than 130,000 square feet of gross buildable
10 area that will generate sales or use tax revenue pursuant to the
11 Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5
12 (commencing with Section 7200) of Division 2 of the Revenue
13 and Taxation Code), that contains more than 20,000
14 stockkeeping units, and derives more than 10 percent of its total
15 sales from the sale of nontaxable merchandise.

16 (b) As used in this section, the term “market area” has the
17 same meaning as that term is defined in Section 53084.

18 (c) Prior to approving or disapproving a proposed
19 development project that would permit the construction of a
20 superstore retailer, a city, county, or city and county shall cause
21 to be prepared an economic impact report.

22 (1) The city, county, or city and county may prepare the
23 economic impact report or contract with a private entity, other
24 than the permit applicant, or another public agency for the
25 preparation of the report. The private entity or other public
26 agency shall be qualified by education, training, and experience
27 to conduct economic and fiscal analyses.

28 (2) The applicant for the development project shall pay the
29 city, county, or city and county for the costs of preparing the
30 economic impact report.

31 (3) The economic impact report shall include, but not be
32 limited to, all of the following:

33 (A) An assessment of the extent to which the proposed
34 superstore retailer will capture a share of retail sales in the city,
35 county, or city and county.

36 (B) An assessment of how the construction and operation of
37 the proposed superstore retailer will affect the supply and
38 demand for retail space in the city, county, or city and county.

39 (C) An assessment of how the construction and operation of
40 the proposed superstore retailer will affect wages and benefits,

1 community income levels, and the demand for employment in
2 the city, county, or city and county.

3 (D) A projection of the costs of public services and public
4 facilities resulting from the construction and operation of the
5 proposed superstore retailer and the incidence of those costs.

6 (E) A projection of the public revenues resulting from the
7 construction and operation of the proposed superstore retailer and
8 the incidence of those revenues.

9 (F) An assessment of the effect that the construction and
10 operation of the proposed superstore retailer will have on retail
11 operations in the same market area.

12 (G) An assessment of the effect that the construction and
13 operation of the proposed superstore retailer will have on the
14 ability of the city, county, or city and county to implement the
15 goals contained in its general plan, including, but not limited to,
16 local policies and standards that apply to land use patterns, traffic
17 circulation, affordable housing, natural resources, including
18 water supplies, open-space lands, noise problems, and safety
19 risks.

20 (H) An assessment of the effect that the construction and
21 operation of the proposed superstore retailer will have on average
22 total vehicle miles traveled by retail customers in the same
23 market area.

24 (d) Nothing in this section shall preclude a city, county, or city
25 and county from conducting additional studies of the effects of
26 the construction and operation of a proposed superstore retailer.

27 (e) At any regularly scheduled meeting of the city, county, or
28 city and county governing body, after the completion of the
29 economic impact report required by subdivision (b), and prior to
30 the issuance of any entitlement, including, but not limited to, a
31 building permit, a city, county, or city and county shall provide
32 the opportunity for public comment on the economic impact
33 report and its findings.

34 (f) (1) The Legislature finds that the construction and
35 operation of a superstore retailer has land use, environmental,
36 economic, fiscal, and social equity effects that extend beyond the
37 boundaries of the city, county, or city and county in which it is
38 located.

39 (2) The Legislature finds that it is essential for the statewide
40 public health, safety, and welfare to require cities, counties, and

1 cities and counties to understand the potential spillover effects of
2 approving the construction and operation of superstore retailers.

3 (3) The Legislature further finds and declares that the review
4 and regulation of superstore retailers is a matter of statewide
5 concern and not merely a municipal affair, as that term is used in
6 Section 5 of Article XI of the California Constitution. Therefore,
7 this section shall apply to charter cities and to charter cities and
8 counties.

9 SEC. 3. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 a local agency or school district has the authority to levy service
12 charges, fees, or assessments sufficient to pay for the program or
13 level of service mandated by this act, within the meaning of
14 Section 17556 of the Government Code.